THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 24235 of 2006

Oral order:

Assailing the award dated 02.04.2005, passed by the Labour Court, Hyderbad, in I.D. No. 194 of 2002, the petitioner filed the present writ petition.

On the ground that the petitioner was involved in cash and ticket irregularities, the 2nd respondent, after due enquiry, removed the petitioner from service. The petitioner unsuccessfully challenged the order of removal in appeal and review petition. Thereafter, the petitioner raised an industrial dispute in I.D. No. 194 of 2002, and the Labour Court, by reason of the award dated 02.04.2005, impugned in this writ petition, set aside the removal order and ordered reinstatement of the petitioner with continuity of service and attendant benefits, but without backwages.

The learned counsel for the petitioner submitted that the Labour Court having found that charge No.1 is trivial in nature and charge No.2 is baseless, and having set aside the order or removal with a direction to reinstate the petitioner with continuity of service and attendant benefits, committed an error in not granting backwages, and more so when the petitioner was acquitted of the charges leveled against him in the criminal case.

On the other hand, the learned Standing Counsel for the respondents supported the impugned award. Though the Labour Court held that charge No.1 is trivial, the fact remains, the same stood proved, and having regard to the proved charge, the Labour Court cannot be said to have committed error in denying backwages while setting aside the order of removal and ordering reinstatement with continuity of service and attendant benefits.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents-APSRTC.

The petitioner was removed from service on two charges, namely that he failed to punch the month of issue of three bus pass tickets and that he having failed to punch the ticket issued on

16.09.2000, re-issued the same showing its validity from 02.11.2000 to 01.12.2000. The Labour Court held that charge No.2 that the ticket, issued on 16.09.2000, was re-issued validating from 02.11.2000 to 01.1.2000, was not based on record, and accordingly held that the said charge is base less. Insofar as charge No.1 is concerned, the Labour Court held that the said charge is trivial in nature, for the said charge was framed, merely apprehending that the petitioner would make use of the unpunched tickets for re-issuing them. Holding so, the Labour Court held that for such trivial charge, punishment of removal from service was not justified, and accordingly while setting aside the order of removal, directing reinstatement of the petitioner with continuity of service and attendant benefits, but without backwages. The said order, by no means, can be said to be illegal.

Merely because the petitioner has been acquitted in the criminal case, it does not mean that he is entitled to be awarded backwages. Backwages do not follow as a result of the order of removal or termination being set aside. Grant of backwages is not automatic or mechanical, it depends upon facts and circumstances of each case (See **U.P. State Brassware Corpn. Ltd. v. Uday Narain Pandey**[1]**)**. It is not a case where the punishment of removal passed by the disciplinary authority against the petitioner was set aside by the Labour Court on account of any procedural lapses committed by the enquiry officer in the conduct of the enquiry or that the enquiry is fraught with illegalities or that the disciplinary authority or the appellate authority had passed orders in violation of the principles of natural justice. But the Labour Court has set aside the order of removal passed by the disciplinary authority as confirmed by the appellate authority, and ordered reinstatement of the petitioner into service on the ground that the punishment imposed was disproportionate to the proved misconduct. Since the Labour Court, considering the trivial nature of charge No.1, which stood proved in the enquiry, ordered lesser punishment than removal, by reinstating the petitioner continuity of service and attendant benefits, no exception can be taken to the award insofar as it denied backwages to the petitioner.

For the foregoing reasons, I find no merit in the writ petition, and the same is accordingly dismissed. No costs.

N.V. RAMANA, J.

Dated: 29th November, 2006.
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[1] (2006) 1 SCC 479